statute required railroad companies to furnish certain appliances and expressly provided, that on injury resulting from failure to do so, the defence of assumed risk should not be available to the railway company. The court nevertheless permitted the defence of contributory negligence to be introduced.

PLATS—STATUTORY DEDICATION—INSUFFICIENT CERTIFICATE AND ACKNOWLEDGMENT.—Under the laws of the state of Illinois, which provided that when an addition was surveyed and a plat made and certified by the county surveyor and acknowledged by the proprietor the fee to the streets and alleys would pass to the city, it was *held* that a plat made and certified by a *deputy* surveyor and acknowledged by the *agent* of the proprietor was insufsufficient to constitute a statutory dedication. *Wilder* v. *Aurora,* etc., *Traction Co.* (1905), — Ill. —, 75 N. E. Rep. 194.

While this is according to precedent in Illinois (*Village of Auburn* v. *Goodwin,* 128 Ill. 57, overruling *Gebhardt* v. *Reeves,* 75 Ill. 305; *Thompson* v. *Maloney,* 199 Ill. 276) it seems somewhat arbitrary. A more satisfactory result could be obtained by applying the following rule, proposed by Judge Elliott (ROADS AND STREETS, § 119), "to resolve doubts in such cases against the donor, and within reasonable limits to construe the dedication so as to benefit the public rather than the donor.", or, as expressed by Dillon in his MUNICIPAL CORPORATIONS (note 2 § 628), "If the plat as recorded * * * contains enough to show that it was intended by the owner to be a dedication under the statute, it would seem to the author to be right, notwithstanding a defective acknowledgment or the like, to hold the proprietor estopped to make the objection that he did not comply with the statute." See *Ragan* v. *McCoy,* 29 Mo. 356.

PLEADING—DISCREPANCY BETWEEN TITLE AND AVERMENTS OF A COMPLAINT.—In the title of the complaint defendant is named only in his individual capacity, but in the complaint itself a cause of action is stated against him in his representative capacity. Upon a demurrer that the complaint does not state a cause of action, *held,* that the demurrer should be sustained. (Werner and Bartlett, JJ., dissent.). *Leonard* v. *Pierce et al.* (1905), — N. Y. —, 75 N. E. Rep. 313.

Courts have frequently held that the title and pleadings may be considered together to determine the capacity in which a party sues or is sued. *Stilwell* v. *Carpenter,* 62 N. Y. 639, in full in 2 Abb. (N. C.) 238; *Jennings* v. *Wright,* 54 Ga. 537; *Rich* v. *Sowles,* 64 Vt. 408; *Beers* v. *Shannon,* 73 N. Y. 292. Thus where a party's name appears in the title, followed by words *descriptio personæ,* and the complaint clearly states a cause of action against or for him as an individual, the affix to his name in the title is treated as surplusage. *Stilwell* v. *Carpenter* (supra); *Litchfield* v. *Flint,* 104 N. Y. 543, 550. And, when under a similar title, the complaint states a cause of action against the party in a representative capacity, the action is against him in that capacity. *Beers* v. *Shannon,* 73 N. Y. 292; *Knox* v. *Met. El. Ry. Co.,* 58 Hun (Sup. Ct. N. Y.) 517, affirmed 128 N. Y. 625. In the principal case, a majority of the court refused to take a step further and disregard an entire omission of the *officio designata* in the title. They rely upon the case of *First Nat. Bank* v. *Shuler,*